

White & Case LLP  
701 Thirteenth Street, NW  
Washington, DC 20005

1 Christopher M. Curran (*pro hac vice*)

2 ccurran@whitecase.com

3 Lucius B. Lau (*pro hac vice*)

4 alau@whitecase.com

5 Dana E. Foster (*pro hac vice*)

6 defoster@whitecase.com

7 White & Case LLP

8 701 Thirteenth Street, N.W.

9 Washington, DC 20005

10 Telephone: (202) 626-3600

11 Facsimile: (202) 639-9355

12 *Counsel to Defendants Toshiba Corporation,*

13 *Toshiba America, Inc., Toshiba America*

14 *Information Systems, Inc., Toshiba America*

15 *Consumer Products, L.L.C., and Toshiba*

16 *America Electronic Components, Inc.*

17 [Additional stipulating parties on signature  
18 page]

19 UNITED STATES DISTRICT COURT  
20 NORTHERN DISTRICT OF CALIFORNIA  
21 (SAN FRANCISCO DIVISION)

22 IN RE: CATHODE RAY TUBE (CRT)  
23 ANTITRUST LITIGATION

24 Case No. 07-5944 SC  
25 MDL No. 1917

26 This Document Relates to:

27 *The Indirect Purchaser Action*

28 **THE TOSHIBA DEFENDANTS AND  
INDIRECT PURCHASER  
PLAINTIFFS' STIPULATION AND  
[PROPOSED] ORDER  
WITHDRAWING PENDING  
MOTIONS**

THE TOSHIBA DEFENDANTS AND INDIRECT PURCHASER PLAINTIFFS'  
STIPULATION AND [PROPOSED] ORDER WITHDRAWING PENDING MOTIONS  
Case No. 07-5944 SC  
MDL No. 1917

1 Defendants Toshiba Corporation, Toshiba America, Inc., Toshiba America  
2 Information Systems, Inc., Toshiba America Consumer Products, L.L.C., and Toshiba  
3 America Electronic Components, Inc., (collectively, the “Toshiba Defendants”) and the  
4 Indirect Purchaser Plaintiffs (the “IPPs”) have conferred by and through their counsel and,  
5 subject to the Court’s approval, HEREBY STIPULATE AS FOLLOWS:  
6

7 WHEREAS, at the time of this stipulation, the Toshiba Defendants have certain  
8 summary judgment motions, motions *in limine*, and miscellaneous non-dispositive motions  
9 pending against the IPPs;  
10

11 WHEREAS, at the time of this stipulation, the IPPs have certain motions *in limine* and  
12 motions to compel pending against the Toshiba Defendants;

13 WHEREAS, the parties have executed a settlement agreement that would release the  
14 IPPs’ claims against the Toshiba Defendants (the “Settlement Agreement”);

15 WHEREAS, the Settlement Agreement is subject to the approval of the Court and will  
16 become final and conclusive only when the Court has entered a final order approving the  
17 Settlement Agreement under Federal Rule of Civil Procedure 23(e), a final judgment is entered  
18 dismissing the underlying action with prejudice as it relates to IPPs’ claims against the Toshiba  
19 Defendants, and all relevant appeals have been exhausted;  
20

21 WHEREAS, in light of the Settlement Agreement, the Toshiba Defendants seek to  
22 withdraw all pending motions solely as they pertain to the IPPs, subject to reinstatement in the  
23 event that the Settlement Agreement does not become final and conclusive;

24 WHEREAS, in light of the Settlement Agreement, the IPPs seek to withdraw all pending  
25 motions solely as they pertain to the Toshiba Defendants, subject to reinstatement in the event that  
26 the Settlement Agreement does not become final and conclusive;  
27  
28

1 WHEREAS, the Toshiba Defendants and the IPPs do not seek to withdraw any motions to  
2 the extent that they pertain to any other plaintiff or any other defendant;

3 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED between  
4 counsel as follows:  
5

6 1. The Toshiba Defendants withdraw the following motions with respect to the IPPs:

- 7 a. The Toshiba Defendants' Motion for Summary Judgment Concerning  
8 Withdrawal (ECF No. 2995);  
9  
10 b. The Toshiba Defendants' Motion *in Limine* to Preclude Evidence  
11 Regarding Damages Allegedly Suffered by the New York Indirect  
12 Purchaser Plaintiffs Class Prior to December 23, 1998 (ECF No. 3573);  
13  
14 c. The Toshiba Defendants' Motion *in Limine* to Preclude IPP Alter Ego  
15 Theories of Liability at Trial (ECF No. 3576);  
16  
17 d. The Toshiba Defendants' Motion to Decertify the Statewide IPP Classes  
18 for Damages (ECF No. 3585);  
19  
20 e. The Toshiba Defendants' Motion for an Order to Direct Certain Indirect  
21 Purchaser Class Representatives to Testify Live at Trial (ECF No. 3588);  
22 and  
23  
24 f. The Toshiba Defendants' Motion to Strike Class Representatives With  
25 Inadequate Proof of Their Individual Purchases of Televisions or Monitors  
26 (ECF No. 3595).  
27

28 2. The Toshiba Defendants withdraw the following separately-filed joinders with  
respect to the IPPs:

THE TOSHIBA DEFENDANTS AND INDIRECT PURCHASER PLAINTIFFS'  
STIPULATION AND [PROPOSED] ORDER WITHDRAWING PENDING MOTIONS

Case No. 07-5944 SC

MDL No. 1917

- 1           a. The Toshiba Defendants' Joinder to the Hitachi Parties' Motion for
- 2           Summary Judgment Based Upon the Lack of Evidence of Participation in
- 3           the Alleged Conspiracy (ECF No. 3010);
- 4
- 5           b. The Toshiba Defendants' Joinder to the Hitachi Defendants' Motion for
- 6           Summary Judgment Based Upon Withdrawal and the Statutes of
- 7           Limitations (ECF No. 3011);
- 8
- 9           c. Toshiba Defendants' Joinder to Philips Electronics North America
- 10          Corporation's, Philips Taiwan Limited's, and Philips Do Brasil Ltda.'s
- 11          Motion for Partial Summary Judgment (ECF No. 3028);
- 12
- 13          d. The Toshiba Defendants' Joinder to Koninklijke Philips N.V.'s, Philips
- 14          Electronics North America Corporation's, Philips Taiwan Limited's, and
- 15          Philips Do Brasil Ltda.'s Motion for Summary Judgment Against Indirect
- 16          Purchaser Plaintiffs Who are Natural Persons Residing in California (ECF
- 17          No. 3042);
- 18          e. The Toshiba Defendants' Joinder to Koninklijke Philips N.V.'s Motion for
- 19          Summary Judgment (ECF No. 3045); and
- 20          f. The Toshiba Defendants' Limited Joinder to Defendants' Motion *in Limine*
- 21          #4 to Exclude LCD and Other Non-CRT Product Conspiracies (ECF No.
- 22          3692).
- 23        3. The Toshiba Defendants withdraw their joinders to the following joint motions
- 24        with respect to the IPPs:
- 25           a. Defendants' Motion for Partial Summary Judgment as to Indirect Purchaser
- 26           Plaintiffs' and Certain Direct Action Plaintiffs' State Law Claims on
- 27           Statute of Limitations Grounds (ECF No. 2978);
- 28

THE TOSHIBA DEFENDANTS AND INDIRECT PURCHASER PLAINTIFFS'  
STIPULATION AND [PROPOSED] ORDER WITHDRAWING PENDING MOTIONS

Case No. 07-5944 SC

MDL No. 1917

- b. Defendants' Motion for Partial Summary Judgment on Plaintiffs' Indirect Purchaser Claims Based on Foreign Sales (ECF No. 3006);
- c. Defendants' Joint Motion for Summary Judgment Based Upon Plaintiffs' Failure to Distinguish Between Actionable and Non-Actionable Damages Under the FTAIA (ECF No. 3008);
- d. Defendants' Joint Motion for Partial Summary Judgment Against Indirect Purchaser Plaintiffs and Certain Direct Action Plaintiffs for Lack of Antitrust Injury and Antitrust Standing Under Federal and Certain State Laws (ECF No. 3050);
- e. Defendants' Motion *in Limine* #3: To Exclude All Evidence and Reference at Trial to the U.S. Department of Justice's Criminal Investigations of the Cathode Ray Tube Industry (ECF No. 3556);
- f. Defendants' Motion *in Limine* #11: To Exclude References to Documents or Behavior Not in Evidence (ECF No. 3557);
- g. Defendants' Joint Motion *in Limine* No. 1: Motion for Pretrial Proffer and Ruling on Admissibility of Alleged Co-Conspirator Statements Under Fed. R. E. 801(d)(2)(E) (ECF No. 3559);
- h. Defendants' Motion *in Limine* #8: To Exclude Evidence and Argument Relating to Damages from "Spillover" or "Ripple" Effects of Foreign Price-Fixing Activities on U.S. Prices (ECF No. 3563-3);
- i. Defendants' Motion *in Limine* #12: To Exclude Plaintiffs' "Price Ladder" Theory of Recovery (ECF No. 3568);

- j. Defendants' Joint Motion *in Limine* to Exclude Improper Characterizations of or Reference to Defendants and Alleged Co-Conspirators [Defendants' MIL No. 6] (ECF No. 3571);
  - k. Defendants' Joint Motion *in Limine* No. 13 to Allow Full Defense Examination of Common Witnesses During Plaintiffs' Case-in-Chief and Limit Use of Deposition Testimony (ECF No. 3579);
  - l. Defendants' Motion *in Limine* No. 2 to Exclude Evidence or Testimony Pertaining to Foreign Antitrust Investigations (ECF. No. 3583); and
  - m. Defendants' Motion *in Limine* #5: To Exclude Plea By Samsung SDI Company, Ltd. as to Non-Pleading Defendants or, Alternatively, to Provide a Limiting Instruction (ECF No. 3589).
4. The IPPs withdraw the following motions with respect to the Toshiba Defendants:
- a. IPPs' Motion *in Limine* No. 1: To Preclude Reference to Duplicative Recovery (ECF No. 3537).
  - b. IPPs' Motion *in Limine* No. 2: To Preclude Reference to Treble Damages, Fees, and Costs (ECF No. 3538).
  - c. IPPs' Motion *in Limine* No. 4: To Preclude Reference to Other Lawsuits Filed by Any of the Named Plaintiffs (ECF No. 3540).
  - d. IPPs' Motion *in Limine* No. 5: To Preclude Reference to Relationships Between Lawyers and Plaintiffs (ECF No. 3541).
  - e. IPPs' Motion *in Limine* No. 6: To Preclude Reference to Plaintiffs' Attendance or Non-Attendance at Trial (ECF No. 3542).

- 1 f. IPPs' Motion *in Limine* No. 7: To Preclude Reference to or Argument
- 2 About How Class Plaintiffs Became Involved in This Case or That the
- 3 Case is "Lawyer-Driven" (ECF No. 3543).
- 4
- 5 g. IPPs' Motion *in Limine* No. 8: To Preclude Reference to and Exclude
- 6 Evidence of the Absence of Criminal Indictment, Conviction or Guilty Plea
- 7 (ECF No. 3544).
- 8
- 9 h. IPPs' Motion *in Limine* No. 9: To Preclude Reference to or Argument
- 10 About Plaintiffs' Failure to Mitigate Damages (ECF No. 3545).
- 11
- 12 i. IPPs' Motion *in Limine* No. 10: To Exclude the Testimony of Witnesses
- 13 Not Designated Pursuant to the Court's Scheduling Orders (ECF No.
- 14 3546).
- 15
- 16 j. IPPs' Motion *in Limine* No. 12: To Exclude Percipient Witnesses, Except
- 17 for One Party Representative, from the Courtroom Unless They Are
- 18 Testifying (ECF No. 3548).
- 19
- 20 k. IPPs' Motion *in Limine* No. 13: To Preclude Live Testimony of
- 21 Defendants' Witnesses Who Are Not Made Available to Testify Live in
- 22 Plaintiffs' Case-in-Chief (ECF No. 3549).
- 23
- 24 l. IPPs' Motion *in Limine* No. 14: To Limit Defendants' Deposition
- 25 Designations presented in Plaintiffs' Case to Reasonable Cross and to
- 26 Exclude Unrelated Designations (ECF No. 3550).
- 27
- 28 m. IPPs' Motion *in Limine* No. 15: To Preclude Reference to the Fact, Terms
- or Amounts of Prior Settlements (ECF No. 3551).
- n. IPPs' Motion *in Limine* No. 16: To Preclude Reference to and Exclude
- Evidence of Other CRT Litigations (ECF No. 3552).

- o. IPPs' Motion *in Limine* No. 17: To (1) Preclude Argument That the Samsung SDI Guilty Plea Includes DOJ Findings of Fact; (2) Exclude Evidence of the Volume of Affected Sales in the Guilty Plea; (3) Exclude Evidence of the Fact and amount of the criminal Fine; and (4) Exclude Any Statement by the DOJ Characterizing the CRT Conspiracy (ECF No. 3553).
- p. IPPs' Motion *in Limine* No. 18: To Preclude Argument That Price Fixing was Pro-Competitive or Necessary (ECF No. 3554).
- q. IPPs' Motion *in Limine* No. 19: To Exclude Character Evidence (ECF No. 3555).
- r. IPPs' September 12, 2014 Motion to Compel Interrogatory Responses (submitted to Special Master Walker).
- s. IPPs' September 19, 2014 Motion to Compel Interrogatory Responses (submitted to Special Master Walker).
- t. IPPs' December 22, 2014 Motion to Compel Deposition of Shigekazu Shibata (submitted to Special Master Walker).

5. The IPPs withdraw their joinders to the following joint motions with respect to the Toshiba Defendants:

- a. Plaintiffs' September 2, 2014 Motion to Compel the Toshiba Defendants to Produce Deposition Witnesses (submitted to Special Master Walker) and IPPs' related Response to Objection of Toshiba Defendants to Order Granting Motion to Compel Production of Witnesses (ECF No. 3171).
- b. Plaintiffs' October 29, 2014 Motion to Compel Responses to Requests for Admission (submitted to Special Master Walker).



8

White & Case LLP  
701 Thirteenth Street, NW  
Washington, DC 20005

Dated: March 24, 2015

Respectfully submitted,

**WHITE & CASE**LLP

By: /s/ Lucius B. Lau

Christopher M. Curran (*pro hac vice*)

ccurran@whitecase.com

Lucius B. Lau (*pro hac vice*)

alau@whitecase.com

Dana E. Foster (*pro hac vice*)

defoster@whitecase.com

701 Thirteenth Street, N.W.

Washington, DC 20005

tel.: (202) 626-3600

fax: (202) 639-9355

*Counsel to Defendants Toshiba Corporation,  
Toshiba America, Inc., Toshiba America  
Information Systems, Inc., Toshiba America  
Consumer Products, L.L.C., and Toshiba  
America Electronic Components, Inc.*

By: /s/

Mario N. Alioto (56433)

Lauren C. Capurro (241151)

TRUMP, ALIOTO, TRUMP & PRESCOTT LLP

2280 Union Street

San Francisco, CA 94123

Tel: (415) 563-7200

Fax: (415) 346-0679

malioto@tatp.com

lauren russell@tatp.com

*Lead Counsel for Indirect Purchaser Plaintiffs*

Pursuant to Local Rule 5-1(i)(3), the filer attests that the concurrence in the filing of this document has been obtained from each of the above signatories.

THE TOSHIBA DEFENDANTS AND INDIRECT PURCHASER PLAINTIFFS'  
STIPULATION AND [PROPOSED] ORDER WITHDRAWING PENDING MOTIONS

Case No. 07-5944 SC

MDL No. 1917

**CERTIFICATE OF SERVICE**

On March 24, 2015, I caused a copy of the “THE TOSHIBA DEFENDANTS AND INDIRECT PURCHASER PLAINTIFFS’ STIPULATION AND [PROPOSED] ORDER WITHDRAWING PENDING MOTIONS” to be electronically filed via the Court’s Electronic Case Filing System, which constitutes service in this action pursuant to the Court’s order of September 29, 2008.

By: /s/ Lucius B. Lau  
Lucius B. Lau (*pro hac vice*)

White & Case LLP  
701 Thirteenth Street, NW  
Washington, DC 20005